

In The Matter Of:

*James H. Gorbey, Jr., Esq., et al v.
Richard Longwell, et al*

*James H. Gorbey, Jr., Esquire
April 5, 2006*

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[1] Baton Rouge, Louisiana.
[2] I've done foreclosure work for the
[3] Pennsylvania State Employees Retirement System
[4] for many years. I would say 70 percent of my
[5] practice was bank work, but all the things that I
[6] told you I kept doing, except that I couldn't
[7] take on a jury trial except for the banks because
[8] it would interfere too much with my practice.
[9] So that's an explanation of how I
[10] do estate work, domestic relations, and some
[11] business law. I've done a lot of litigation in
[12] municipal nuisance taxes.
[13] Is that enough?
[14] Q. It is.
[15] Do you still maintain a solo
[16] practice at this point?
[17] A. Yes.
[18] Q. Can you give me some idea of your
[19] experience in doing estate administration?
[20] A. Well, my father had been an attorney before
[21] he became a judge in Media, Delaware County, and
[22] then a federal judge, and I pretty much worked in
[23] my dad's office, even late grade school and high
[24] school. The reason I say that to you is my dad

[1] liability. See if their family members are
[2] arranging for disposition of the remains, to
[3] situations where there has been an unfortunate
[4] incident such as this one.
[5] Some of them have been interesting
[6] and substantial in addition to my own work, you
[7] know? I'm not saying to you that it's a hundred
[8] percent of my business. I do this work, and
[9] often when someone needs a litigator in this kind
[10] of work, I will get involved. Many lawyers who
[11] just do estates don't like to litigate. That's
[12] how I do my litigation type of work, in estates.
[13] Q. Thank you.
[14] You are the administrator of the
[15] Estate of Marissa Rose Fishman in this case,
[16] correct?
[17] A. That is correct, sir.
[18] Q. Can you tell me how that came about? Was
[19] that a court appointment?
[20] A. Yes. I was appointed by the register of
[21] wills at that time, Michael Gillin. I did not
[22] know this little girl or her family. All I was
[23] told is what I am generally told, is basically,
[24] the gentleman who was the register of wills at

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[1] had done some estate work, and when I became a
[2] lawyer I guess I inherited a lot of my dad's
[3] work, so to speak.
[4] So I would say from the time that I
[5] started practicing law I've always done a
[6] substantial amount of estate work.
[7] Now, when I say that, it is
[8] primarily average, regular estates.
[9] Occasionally, you have a big estate. I've also
[10] been appointed by the Court of Common Pleas of
[11] Delaware County probably from 1975 or 1976
[12] occasionally as an administrator where you have a
[13] situation where there is a problem in the family,
[14] such as this situation, that we have today.
[15] They have been -- the appointments
[16] that I am talking about are everything from a no
[17] asset estate, where basically the register of
[18] wills asks you as a favor to check into a
[19] situation where a body might be in the morgue,
[20] they know of no family. Basically, you're
[21] volunteering your time to investigate what is
[22] going on in terms of where did the person live,
[23] what were the circumstances of their death. A
[24] general search to see if there are any assets or

[1] the time was Michael F.X. Gillin, Esquire. And I
[2] was appointed on September 23rd, 2003 and there
[3] was an order on that date.
[4] I brought the original register of
[5] wills certificate of grant of letters. I can't
[6] give them to you, but I can let you have them so
[7] you may look at it.
[8] Q. Thank you.
[9] What can you tell me about the
[10] circumstances under which you were appointed by
[11] the register of wills to be the administrator of
[12] this particular estate?
[13] A. Nothing in particular. I know Mr. Gillin.
[14] I've known him for years and years as attorneys
[15] in the state bar association, and we used to have
[16] buildings across the street from one another.
[17] But as to why he would appoint me other than the
[18] fact that he knows me is that I go to the
[19] register of wills' office fairly regularly, and,
[20] basically, I think he was annoyed, not with me,
[21] but in general, that nobody seemed to want to
[22] give him a hand at one point about taking care of
[23] persons who had no assets. But something had to
[24] be done to take care of the deceased.

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[1] By that, I mean, the register of
[2] wills in Delaware County, Pennsylvania gets
[3] contacted by the morgue when a body is not
[4] claimed, and by that I mean no family member
[5] comes forward. And I was in there one day and he
[6] said, Jim, I need a favor. Would you take care
[7] of this for me. And he asked me for, basically,
[8] a couple of favors.

[9] And then there was an estate, it
[10] was just a normal, small estate. It just
[11] happens. It's just that you get a working
[12] relationship with somebody. And he knew that I
[13] had done work for previous register of wills, but
[14] there is no personal family relationship between
[15] the families, there is no social relationship,
[16] it's just I'm across from the courthouse. I've
[17] been doing it for years. He knows that I will do
[18] what I have to do, and what he needs me to do.

[19] Q. What were the circumstances of this
[20] particular appointment as administrator for this
[21] estate? What was explained to you as to why you
[22] were being appointed?

[23] A. I got a call from Mr. Gillin, and I have a
[24] time slip. I returned the call. He asked me to

[1] A. No.
[2] Q. I can assume at the point when the register
[3] of wills comes to you the estate exists already?
[4] A. No.
[5] Q. It did not?
[6] A. No. See what -- I don't know what
[7] proceeded me. I'm assuming either the mother or
[8] the father, or both went into petition for a
[9] grant of letters or administration which had
[10] authorized them to take care of the affairs of
[11] the estate of this little girl. And that's why I
[12] am saying that when you have a situation where
[13] you can't have both parents cooperating, and
[14] there are all sorts of situations, just not that,
[15] where the parents aren't getting along that the
[16] court comes to a decision it's going to be
[17] difficult to have the interest of the estate
[18] properly addressed in a timely fashion.

[19] There are other -- plenty of other
[20] lawyers that are appointed to these cases in
[21] Delaware County, and every county, actually, that
[22] I'm aware of in Pennsylvania. So it's just one
[23] of those things. It's -- he may have, meaning
[24] Mr. Gillin, may have called, you know, a couple

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[1] meet him at the register of wills office. He
[2] said to me that he wanted me to take care of the
[3] estate of this little girl who had drown in her
[4] grandparents' home while she was staying with her
[5] mother, because the mother and father had a
[6] shared custody arrangement, but I don't know the
[7] date. He didn't tell me, I don't think, at the
[8] time.

[9] He explained to me that, obviously,
[10] the mother and father were separated and in
[11] litigation, and that it would be very difficult
[12] for one of the parties to be the administrator of
[13] the estate under the circumstances of the child
[14] having drown at the mother's parents' home with
[15] the mother home, and that that would put her in a
[16] difficult situation. And of course the mother
[17] was devastated, but the father was devastated.
[18] And you have to understand, as I was told, there
[19] was a difficult divorce proceeding going on.

[20] That's what I was told.

[21] Q. Were you told anything more specific than
[22] it was difficult?

[23] A. No.

[24] Q. No details?

[1] of different people, and I guess whoever calls
[2] him back first and he can see the first, gets to
[3] be the administrator. There is no secret.

[4] I mean, hey, I've got a job to be
[5] done. I got a little girl who has passed away
[6] and I have parents who aren't getting along,
[7] something has to be done, we're going to appoint
[8] a lawyer.

[9] Q. What is a petition for a grant of letter?
[10] What do you mean when you say that?

[11] A. When someone dies his or her assets are
[12] sort of left in limbo for a short period of time,
[13] and there has to be a mechanism to get those
[14] assets or rights from the person who died to his
[15] or her heirs.

[16] So the notion is that we have an
[17] estate of a deceased person which is similar to
[18] the creation of a corporation. In other words,
[19] it's a legal person, but it acts through agents.
[20] And an estate acts through an executor if there
[21] is a will, or an administrator if there is no
[22] will. And under the laws of Pennsylvania, if
[23] someone dies and there is no will, certain people
[24] have preference or priority in being named as the